

AMENDED IN SENATE JUNE 30, 1997
AMENDED IN ASSEMBLY MAY 28, 1997
AMENDED IN ASSEMBLY MAY 1, 1997
AMENDED IN ASSEMBLY APRIL 10, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1547

**Introduced by Committee on Consumer Protection,
Governmental Efficiency and Economic Development
(Davis (Chair), Campbell (Vice Chair), Alquist, Figueroa,
Firestone, Machado, Morrissey, Napolitano, Ortiz, and
Strom-Martin)**

March 5, 1997

An act to repeal Section 1326 of the Code of Civil Procedure, and to amend Section 16302.1 of, to add Sections ~~H54~~, 16301.6, 16301.7, and 16301.8 to, and to repeal Sections 13940, 13941, 13942, 13943, 13943.1, and 13943.2 of, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as amended, Committee on Consumer Protection, Governmental Efficiency and Economic Development. State government.

(1) Under existing law, specified expenditures made by the Controller from the Unclaimed Property Fund that exceed \$200 are subject to approval by the State Board of Control.

This bill would repeal this provision.

~~(2) Existing law authorizes withholding, garnishment, levy, or assignment of a person's wages for certain purposes.~~

~~This bill would authorize the Controller to deduct from the earnings of any state employee or state officer the actual cost to the Controller of processing a withholding, garnishment, levy, or assignment pursuant to specified provisions.~~

~~(3) Existing law authorizes the State Board of Control to discharge from accountability any state agency or employee that is required to collect any state taxes, licenses, fees, or money owed to the state for any reason that is due and payable if the moneys are uncollectible or the amount does not justify the cost of collection.~~

This bill would delete this authority and related provisions and instead authorize the Controller to discharge any state agency or employee from accountability for the collection of taxes, licenses, fees, or money if the debt is uncollectible or the amount of the debt does not justify the cost of its collection. The bill would also authorize a state agency not to collect these moneys if the amount involved is \$250 or less and the amount owed is uncollectible or does not justify the cost of collection.

~~(4)~~

(3) This bill would also authorize the Controller rather than the State Board of Control to adopt rules and regulations to permit state agencies to retain overpayments made to those agencies where a demand for refund is not made within 6 months after the refund becomes due.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1326 of the Code of Civil
2 Procedure is repealed.

3 ~~SEC. 2. Section 1154 is added to the Government~~
4 ~~Code, to read:~~

5 ~~1154. Notwithstanding any other law to the contrary,~~
6 ~~the Controller may deduct from the earnings of any state~~
7 ~~employee or state officer the actual cost to the Controller~~

1 of processing a withholding, garnishment, levy, or
2 assignment pursuant to any of the following provisions:

3 (a) Section 706.030, 706.072, 706.074, or 706.125 of the
4 Code of Civil Procedure.

5 (b) Section 5235 of the Family Code.

6 (c) Section 926.8 or Section 16583.5 of the Government
7 Code.

8 (d) Section 300 of the Labor Code.

9 (e) Subdivision (e) of Section 3088 of the Probate
10 Code.

11 (f) Section 10878 or Section 19271 of the Revenue and
12 Taxation Code.

13 (g) Section 1755 of the Unemployment Insurance
14 Code.

15 ~~SEC. 3.—~~

16 *SEC. 2.* Section 13940 of the Government Code is
17 repealed.

18 ~~SEC. 4.—~~

19 *SEC. 3.* Section 13941 of the Government Code is
20 repealed.

21 ~~SEC. 5.—~~

22 *SEC. 4.* Section 13942 of the Government Code is
23 repealed.

24 ~~SEC. 6.—~~

25 *SEC. 5.* Section 13943 of the Government Code is
26 repealed.

27 ~~SEC. 7.—~~

28 *SEC. 6.* Section 13943.1 of the Government Code is
29 repealed.

30 ~~SEC. 8.—~~

31 *SEC. 7.* Section 13943.2 of the Government Code is
32 repealed.

33 ~~SEC. 9.—~~

34 *SEC. 8.* Section 16301.6 is added to the Government
35 Code, to read:

36 16301.6. (a) Any state agency or employee required
37 to collect any state taxes, licenses, fees, or money owing
38 to the state for any reason that is due and payable may be
39 discharged by the Controller from accountability for the
40 collection of the taxes, licenses, fees, or money if the debt

1 is uncollectible or the amount of the debt does not justify
2 the cost of its collection.

3 (b) The application for a discharge under this section
4 shall be filed with the Controller and includes all of the
5 following:

6 (1) A statement of the nature and amount of the tax,
7 license, fee, or other money due.

8 (2) The names of the persons liable.

9 (3) The estimated cost of collection.

10 (4) All other facts warranting the discharge, unless the
11 Controller determines that the circumstances do not
12 warrant the furnishing of detailed information.

13 (c) The Controller shall audit the applications and
14 discharge the applicant from further accountability for
15 collection and authorize the applicant to close its books
16 on that item if the Controller determines all of the
17 following:

18 (1) The matters contained in the application are
19 correct.

20 (2) No credit exists against which the debt can be
21 offset.

22 (3) Collection is improbable for any reason.

23 (4) The cost of recovery does not justify the collection.

24 (5) For items that exceed the monetary jurisdiction of
25 the small claims court, the Attorney General has advised,
26 in writing, that collection is not justified by the cost or is
27 improbable for any reason.

28 ~~SEC. 10.~~

29 *SEC. 9.* Section 16301.7 is added to the Government
30 Code, to read:

31 16301.7. A discharge of a state agency or employee
32 pursuant to Section 16301.6 does not release any person
33 from the payment of any tax, license, fee, or other money
34 that is due and owing to the state.

35 ~~SEC. 11.~~

36 *SEC. 10.* Section 16301.8 is added to the Government
37 Code, to read:

38 16301.8. In addition to a discharge from
39 accountability pursuant to Section 16301.6, a state agency
40 is not required to collect taxes, licenses, fees, or money

1 owed to the state if the amount to be collected is two
2 hundred fifty dollars (\$250) or less and the amount owed
3 to the state is uncollectible or does not justify the cost of
4 collection. This authority may be revoked by the
5 Controller if he or she finds that the agency abused its
6 discretion to refrain from collecting taxes, licenses, fees,
7 or money owed to the state. Nothing contained in this
8 section shall be construed as releasing any person from
9 the payment of any money due the state.

10 ~~SEC. 12.~~—

11 *SEC. 11.* Section 16302.1 of the Government Code is
12 amended to read:

13 16302.1. Whenever any person pays to any state
14 agency pursuant to law an amount covering taxes,
15 penalties, interest, license or other fees, or any other
16 payment, and it is subsequently determined by the state
17 agency responsible for the collection thereof that this
18 amount includes an overpayment of ten dollars (\$10) or
19 less of the amount due the state pursuant to the
20 assessment, levy, or charge to which the payment is
21 applicable, the amount of the overpayment may be
22 disposed of in either of the following ways:

23 (1) The state agency responsible for the collection to
24 which the overpayment relates may apply the amount of
25 the overpayment as a payment by the person on any
26 other taxes, penalties, interest, license or other fees, or
27 any other amount due the state from that person if the
28 state agency is responsible by law for the collection to
29 which the overpayment is to be applied as a payment.

30 (2) Upon written request of the state agency
31 responsible for the collection to which the overpayment
32 relates, the amount of the overpayment shall, on order of
33 the Controller, be deposited as revenue in the fund in the
34 State Treasury into which the collection, exclusive of
35 overpayments, is required by law to be deposited.

36 The Controller may adopt rules and regulations to
37 permit state agencies to retain these overpayments
38 where a demand for refund permitted by law is not made
39 within six months after the refund becomes due; and the
40 retained overpayments shall belong to the state.

1 Except as provided in the foregoing paragraph, this
2 section shall not affect the right of any person making
3 overpayment of any amount to the state to make a claim
4 for refund of the overpayment, nor the authority of any
5 state agency or official to make payment of any amount
6 so claimed, if otherwise authorized by law.

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